

Message Text

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DRAFTED BY D/HA/ORM:LAWIESNER:ND

APPROVED BY IATF:JVTAFT

L/M:KEMALMBORG

HEW/OS:PAHOLMAN

D/HA:JMWILSON, JR.

IATF:GMETZIN

JUSTICE/INS:SBERNSEN

IATF: RVKEELEY

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P 152831Z AUG 75

FM SECSTATE WASHDC

TO CINCPACREP GUAM/TTPI PRIORITY

CG CAMP PENDLETON CALIF PRIORITY

CG FORT CHAFFEE ARKANSAS PRIORITY

EGLIN AFB FLORIDA PRIORITY

INDIANTOWN GAP MIL RES PA PRIORITY

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E.O. 11652: N.A.

TAGS: SREF

SUBJECT: UNACCOMPANIED AND UNRELATED INDOCHINESE CHILDREN

REF: A. STATE 183086; B. CAMP PENDLETON MSG. 140145Z

AUG. 75

FOR SENIOR CIVIL COORDIATORS

1. CALIFORNIA COURT CASE CONCERNING CERTAIN VIETNAMESE
CHILDREN BROUGHT IN BY OPERATION BABYLIFT, IN WHICH THE
JUDGE ON JUNE 30 ORDERED, INTER ALIA, THAT INS SUBMIT PLANS

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FOR OVERSEAS INVESTIGATIONS TO DETERMINE EXISTENCE OF

LIVING GUARDIANS OF CHILDREN WHOSE ORPHAN, RELEASE OR ABANDONMENT STATUS IS IN QUESTION, AND FOR REPATRIATION OF THOSE CHILDREN ILLEGALLY IN THE U.S. WHOSE PARENTS HAVE BEEN LOCATED, HAS IMPLICATIONS FOR UNACCOMPANIED AND UNRELATED CHILDREN IN CAMPS. A PLAN FOR INVESTIGATIONS WAS SUBMITTED. ALSO, AT THE REQUEST OF INS, AN EFFORT WILL BE MADE TO ARRANGE, THROUGH THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES OR THROUGH THE ICRC OR OTHER APPROPRIATE CHANNEL FOR INVESTIGATION IN VIET-NAM TO ASCERTAIN IF THERE IS PERSUASIVE EVIDENCE THAT THESE CHILDREN HAVE CLOSE RELATIVES WHO DID NOT ABANDON THEM AND WHO PRESENTLY INTEND TO CARE FOR THEM.

2. REFTEL (A) INSTRUCTION IS SUFFICIENT TO ENSURE THE PROTECTION OF RIGHTS OF UNACCOMPANIED CHILDREN, WHILE THEY ARE IN THE U.S. THIS MESSAGE PROVIDES GUIDANCE IN CASE COURT ACTION IS THREATENED OR INSTITUTED TO REQUIRE THE REPATRIATION OF SUCH CHILDREN, AS NOW SEEMS TO BE THE CASE AT PENDLETON (REF B).

3. THE JUSTICE DEPARTMENT WOULD DEFEND THE GOVERNMENT IN ANY SUCH ACTIONS. SENIOR CIVIL COORDINATORS SHOULD NOTIFY IATF AS EARLY AS POSSIBLE OF IMPENDING COURT SUITS.

4. OUR BASIC POSITION IS AS FOLLOWS:

IT IS KNOWN THAT MANY VIETNAMESE PARENTS SENT THEIR CHILDREN OUT WITH RELATIVES, FRIENDS OR EVEN STRANGERS, BECAUSE THEY DID NOT WANT THE CHILDREN TO LIVE UNDER A COMMUNIST REGIME.

SOME OF THE PARENTS MAY STILL FEEL THAT WAY, WHILE OTHERS MAY HAVE CHANGED THEIR MINDS.

THE WISHES OF THE PARENTS AND THE RIGHTS OF THE CHILDREN MUST BOTH BE RESPECTED. WHATEVER ACTION THE UNITED STATES TAKES SHOULD BE AIMED AT ENABLING THOSE PARENTS WHO SINCERELY WISH THE REPATRIATION OF THEIR CHILDREN TO COMMUNICATE THEIR WISHES, WHILE PROTECTING FROM PRESSURES THOSE PARENTS WHO DO NOT WANT THEIR LIMITED OFFICIAL USE

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CHILDREN TO RETURN TO VIET-NAM, AND PROTECTING THE CHILDREN THEMSELVES.

THE UNHCR, WHICH HAS ASSUMED RESPONSIBILITY FOR VOLUNTARY REPATRIATION AT THE REQUEST OF BOTH THE VIETNAMESE AUTHORITIES AND THE U.S. IS THE PROPER AGENCY TO DEAL WITH THIS MATTER. AT PRESENT IT HAS NO OFFICE WITHIN VIET-NAM AND NO MEANS OF ASCERTAINING THE WISHES

OF THE PARENTS.

WE HAVE SUGGESTED TO THE UNHCR THAT, AT SUCH TIME AS IT CAN OPEN AN OFFICE IN SAIGON, IT ARRANGE WITH THE PRG FOR A PUBLIC ANNOUNCEMENT INVITING PARENTS WHO WISH THEIR CHILDREN RETURNED TO COME FORWARD AND REGISTER. THE ARRANGEMENT SHOULD BE SUCH THAT PARENTS WHO DO NOT WISH THEIR CHILDREN REPATRIATED ARE NOT EXPOSED AND ARE PROTECTED FROM PRESSURE, AND THAT CHILDREN ARE NOT REPATRIATED WITHOUT THE FREELY EXPRESSED CONSENT OF THE PARENTS. THE UNHCR IS FULLY IN ACCORD WITH THIS VIEW.

- THEREFORE, THE U.S. CAN NOT AGREE TO ANY REPATRIATION OF UNACCOMPANIED OR UNRELATED CHILDREN UNTIL SUCH TIME AS THE TRUE WISHES OF THEIR PARENTS CAN BE ASCERTAINED AND EVALUATED, ALONG WITH OTHER CONSIDERATIONS AFFECTING THE WELFARE OF THE CHILDREN. SISCO

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